

10. The film according to claim 1, wherein the polyester is polyethylene terephthalate.

REMARKS

Reconsideration is respectfully requested of the objections and rejections under 35 USC 112 and 35 USC 103. Claims under prosecution are 1 to 11 and 13 to 26.

It is noted that the Office action is directed to claims 1 to 12. However with entry of a Preliminary Amendment upon filing of the present patent application, claims under prosecution were 1 to 26. Clarification is requested.

Claims 1, 4 - 5 and 10 stand objected due to use of "(s)" in claims 1, 4 and 5. This term is cancelled in claim 1; also cancellation previously took place in claims 4 and 5 in the Preliminary Amendment. In claim 10, the objected term "PET" has been changed to polyethylene terephthalate. ✓

Claims 1 to 12 stand rejected under 35 USC 112 due to the term "substantially" in claims 1 and 2. This terminology has been cancelled. Claim 12 has been cancelled. Accordingly there are no issues under 35 USC 112 opposite claims 1 to 11. ✓

Claims 1 to 12 stand rejected under 35 USC 103(a) as being unpatentable over Minami, et al., U.S. Patent 4,399,179 in view of Miwa, et al., U.S. Patent 4,067,855. The Office position is summarized as follows:

"It would have been obvious to one of ordinary skill in the art at the time the invention was made to use titanium dioxide particles to color the delustered layers of minami since inert particles such as titanium dioxide are known to be compatible with polyester layers."

This position is traversed.

Attention is respectfully directed to the requirement in all claims that two crystalline polyester layers must be present. In contrast the delustered layer of Minami is not a crystalline polyester layer. It is amorphous. Attention is respectfully directed to the Abstract, column 2, lines 23 to 52, column 3, lines 20 to 50, column 6, lines 29 to 31 and *ethylene terephthalate*

Examples 1 to 8 wherein a polyethylene terephthalate copolymer is present containing a defined constituent of the polymer chain. This type of copolymer is not a crystalline polyester as required in all claims. No further remarks are considered necessary in this traversal. One of ordinary skill in the art could not convert the delustered layer required by Minami into a crystalline polyester layer. Such change would defeat the teachings and purpose of this publication. The secondary teachings of Miwa are applied only to disclose use of specific inert particles. Accordingly the combination of publications must fail in applicability under 35 USC 103(a).

It is noted that claims 13 to 26 represent dependent claims and likewise represent a patentable advance in the art as claims 1 to 11.

Removal of all objections and rejections is requested. A notice of allowance for claims 1 to 11 and 13 to 26 is in order and is solicited.

Respectfully submitted,



ANDREW G. GOLIAN
ATTORNEY FOR APPLICANTS
REGISTRATION NO. 25,293
TELEPHONE: 302-892-0747
FACSIMILE: 302-892-7343

Dated: April 30, 2003

VERSION WITH MARKINGS TO SHOW CHANGES MADE

In showing the changes, deleted material is shown as bracketed [], and inserted material is shown as underlined.

IN THE CLAIMS:

1. A film comprising:

(i) at least one crystalline polyester layer containing more than 5 wt % of a pigment, and

(ii) at least one crystalline polyester layer [substantially] devoid of pigment,

where the ratio of the respective thickness of the layer[(s)] devoid of pigment to the pigmented layer[(s)] is at least 1.

2. The film of claim 1 comprising two outer layers containing pigment and one inner layer [substantially] devoid of pigment.

10. The film according to claim 1, wherein the polyester is [PET] polyethylene terephthalate.